



The Plaintiffs also claim that even if what Tina Prater has claimed is not true, the charges brought against the Plaintiffs were brought without probable cause and that the Defendants should have known the evidence did not rise to the level needed to establish probable cause for indictment.

The amended complaint alleges that the actions of the Defendants constitute malicious prosecution pursuant to the 4<sup>th</sup> Amendment to the U. S. Constitution under federal law and malicious prosecution under Tennessee state law. The false arrest and imprisonment claim under 42 U.S.C.S. § 1983 which was in the original complaint has been dropped from the amended complaint. The Plaintiffs claim damages due to emotional strain, mental anguish, damage to reputation, embarrassment, humiliation and lost wages.<sup>2</sup> The Plaintiffs seek these compensatory damages in addition to punitive damages, attorney fees, and the costs of litigation.

The Defendants vehemently deny these allegations. They allege that this operation used proper policies and procedures to employ a confidential informant to make undercover drug buys. In some cases, Tina Prater may have staged some buys to get the fee she was being paid without either Defendant's knowledge until after charges had been filed.

For the purposes of this motion, the Defendants contend that Plaintiffs cannot prove two of the elements of a federal malicious prosecution claim and they rely on the defenses of qualified immunity and absolute immunity of grand jury witnesses. As to the state claim of malicious prosecution, the Defendants rely on the defense that probable cause existed for the arrest of the Plaintiffs, an absence of evidence of malice and that discretionary function immunity applies to this case under Tennessee law.

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<sup>2</sup> The original complaint alleged lost business income to Jeremiah Myers but he withdrew that element of damages.

Filed in support of this motion are a memorandum of law, affidavits, deposition pages, deposition exhibits and recordings of the transactions involving plaintiffs.

Respectfully submitted,

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